

# **EXHIBIT A**

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UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN FRANCISCO DIVISION

PENN ENGINEERING &  
MANUFACTURING CORP., and  
PEM MANAGEMENT, INC.,  
v.  
Plaintiffs,  
PENINSULA COMPONENTS, INC.,  
Defendant.

Case No. C07 04231 CRB

**RULE 26(a)(1) DISCLOSURES OF  
PLAINTIFFS**

**JURY TRIAL DEMANDED**

Pursuant to Rule 26(a)(1) of the Federal Rules of Civil Procedure and the parties' Joint Case Management Conference Statement, and without waiving any claims of privilege, work product protection or other bases for nondisclosure, Plaintiffs, Penn Engineering & Management Corp. and PEM Management, Inc. (collectively, "PEM"), by their undersigned counsel, and subject to supplementation, hereby makes their disclosures as follows.

PEM reserves its right to supplement this disclosure.

**I. Fed. R. Civ. P. 26(a)(1)(A) – Individuals Likely To Have Discoverable Information That Plaintiffs May Use To Support Its Claims or Defenses, Unless Solely for Impeachment**

Pursuant to Fed. R. Civ. P. 26(a)(1)(A), PEM hereby identifies the individuals listed in Exhibit A hereto as persons who may have discoverable information that plaintiffs may use to support their claims or defenses, unless solely for impeachment. The name, address, telephone number (to the extent known to PEM), and the subject(s) of information known are set forth in Exhibit A for each person identified.

PEM is continuing its investigation and may in the future learn the identities of additional persons who are likely to have information relevant to any claims or defenses in this case, in which case PEM will supplement this disclosure.

PEM makes these initial disclosures without waiving any arguments it may have concerning the relevancy or admissibility of, or proper weight that should be accorded to, any of the information known by persons listed in Exhibit A.

Subject to the foregoing qualifications, and to the best of the undersigned's knowledge, information, and belief, the initial disclosures of persons set forth in Exhibit A is complete and correct as of this time. PEM reserves the right to supplement or correct this initial disclosure.

**II. Fed. R. Civ. P. 26(a)(1)(B) – Description of Relevant Documents in Plaintiffs' Possession, Custody or Control**

Pursuant to Fed. R. Civ. P. 26(a)(1)(B), PEM submits a description of documents, data compilations, and tangible things in its possession, custody, or control that are likely to be relevant to one or more claims or defenses in this case. That description is attached hereto as Exhibit B.

1 PEM is continuing its investigation and may in the future locate additional documents,  
2 data compilations, or tangible things that are likely to be relevant to any claims or defenses in  
3 this case.

4 PEM makes these initial disclosures without waiving any arguments it may have  
5 concerning the relevancy or admissibility of, or proper weight to be accorded to, any of the  
6 information contained in the documents described in Exhibit B.

7 PEM makes these initial disclosures without waiving any applicable privilege or doctrine.  
8 PEM also reserves the right to seek relief under Rule 26(c) prior to production of some or all  
9 documents described in Exhibit B.

10 Subject to the foregoing qualifications, and to the best of the undersigned's knowledge,  
11 information, and belief, PEM's initial disclosure of documents, data compilations, and tangible  
12 things set forth in Exhibit B is complete and correct as of this time. PEM reserves the right to  
13 supplement or correct this initial disclosure.

14 **III. Fed. R. Civ. P. 26(a)(1)(C) – Computation of Damages**

15 PEM is entitled to a reasonable royalty on defendant's unlicensed sales of products that  
16 infringe PEM's patents during the past six years. The amount of a reasonable royalty and the  
17 amount of defendant's unlicensed infringing sales are both topics for discovery, and PEM  
18 believes that it would be premature to attempt to calculate those amounts at this time. To the  
19 extent discovery reveals that PEM suffered other harm, including, but not limited to, lost sales  
20 and profits, PEM reserves the right to seek the actual and exemplary damages, including  
21 defendant's total profit on infringing designs.

22 PEM is also entitled to defendant's profits, and damages sustained by PEM and the costs  
23 of this action resulting from defendant's unlicensed sales of products that infringe PEM's  
24 trademark. The amount of the defendant's profits and PEM's damages are both topics for  
25 discovery. PEM reserves the right to seek statutory or exemplary damages to which the evidence  
26 shows them to be entitled.

27 **IV. Fed. R. Civ. P. 26(a)(1)(D) – Existence and Contents of Any Insurance Agreement**

28 PEM is unaware of any insurance agreement under which any person carrying on an

1 insurance business may be liable to satisfy all or part of a judgment which may be entered in this  
 2 action, or to indemnify or reimburse for payments made to satisfy any judgment. Should PEM  
 3 identify such an agreement or becomes aware of such a claim or notification, it will provide the  
 4 appropriate disclosures as required under Federal Rule of Civil Procedure Rule 26(a)(1)(D).

5 **V. Fed. R. Civ. P. 26(a)(2) – Identity of Experts and Their Opinions**

6 PEM will disclose its experts in such manner and on such schedule as the Court may  
 7 order.

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 9 Dated: November 14, 2007

Respectfully submitted,

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